

49-13-303 Supplemental benefit established -- Defined contribution plan options -- Contribution by employer and employee -- Immediate vesting of contributions -- Plans to be separate -- Tax-qualified status of plans.

- (1)
- (a) Participating employers in Level A under Section 49-13-301, which are participating educational institutions or participating employers whose activities are associated with participating educational institutions, shall make a nonelective contribution on behalf of each of its regular full-time employees who are members of this system an amount equal to at least 1.5% of the member's compensation to a defined contribution plan qualified under Section 401(k) of the Internal Revenue Code which is selected by the regular full-time employee and which is sponsored by the board, by that Level A employer, or by a group of similar Level A employers, and which has been grandfathered under Section 1116 of the Federal Tax Reform Act of 1986.
 - (b) All other Level A participating employers under Section 49-13-301 shall make a nonelective contribution on behalf of each of its regular full-time employees who are members of this system an amount equal to at least 1.5% of the member's compensation to the defined contribution plan qualified under Section 401(k) of the Internal Revenue Code which is sponsored by the board.
 - (c) The member or participating employer may make additional payments to either the qualified 401(k) plan which receives the 1.5% employer contribution described in this Subsection (1), or to any other defined contribution plan qualified under Section 401(k) of the Internal Revenue Code which is selected by the member and sponsored by the board, that Level A employer, or a group of similar Level A employers, and which has been grandfathered under Section 1116 of the Federal Tax Reform Act of 1986.
- (2)
- (a) Participating employers in Level B under Section 49-13-301 may make nonelective contributions on behalf of each of its regular full-time employees who are members of this system to the 401(k) defined contribution plan sponsored by the board or to a qualified plan sponsored by the participating employer which has been grandfathered under Section 1116 of the Federal Tax Reform Act of 1986.
 - (b) The member may also make voluntary deferrals to the same 401(k) plan which the member selected to receive the employer contribution described in Subsection (2)(a).
- (3) Each qualified defined contribution 401(k) plan is separate and distinct from any other qualified defined contribution 401(k) plan for all purposes, including purposes of fiduciary liability and plan administration.
 - (4) A member may not make voluntary deferrals to any other qualified 401(k) plan sponsored by a state or local government.
 - (5) The total amount contributed by the participating employer and the member under Subsection (1) or (2) vests to the member's benefit immediately and is nonforfeitable.
 - (6) The board may request from any other qualified 401(k) plan under Subsection (1) or (2) any relevant information pertaining to the maintenance of its tax qualification under the Internal Revenue Code.
 - (7) The board may take any action which in its judgment is necessary to maintain the tax-qualified status of its 401(k) defined contribution plan under federal law.

Renumbered and Amended by Chapter 250, 2002 General Session